

REMARKS

This submission is responsive to the Examiner's Interview Summary, mailed October 10, 2007, and the October 15, 2007, Notice withdrawing the July 17, 2007, non-Final Office Action, and issuing a Restriction Requirement.

A. Statement of the Summary of the Interview

Applicants' representative, Christian M. Bauer, appreciates the Examiner's time in conducting an in-person interview on 3 Oct. 2007, and accepts the October 10, 2007, interview summary as an accurate representation of the content of the interview. Consistent with the discussions during the interview, the Applicants also appreciate the withdrawal of the July 17, 2007, non-final Office Action and the issuance of the October 15, 2007 Restriction Requirement.

B. Response to the Restriction Requirement

In the October 15, 2007, Restriction Requirement, the Examiner requires Applicants to restrict the application to one of the following inventions defined by the grouping of claims below:

- I. Claims 1-16 drawn to a fluticasone composition;
- II. Claims 17 and 19-81, drawn to a sterile filterable fluticasone composition; and
- III. Claims 82-99 drawn to a composition comprising an immunosuppressive agent.

Applicants elect Group II, claims 17 and 19-81, drawn to a sterile filterable fluticasone composition, without traverse.

B. Status of the Claims

Consistent with the Restriction Requirement, claims 1-16 and 82-99 are cancelled without prejudice or disclaimer. Applicants reserve the right to file divisional applications directed to the inventions defined in the claims of Groups I and III.

Of the claims in Group II:

claims 17, 22, 23, 39, 43, and 60 are the independent claims; claims 25, 26, 45, 46, 62, 63, and 68 are cancelled without prejudice or disclaimer; and claims 17, 19-24, 29, 30, 34, 35, 39, 44, 47-51, 55, 56, 60, 61, 64, 66, 69, 70, 72-74, 77, and 78 are amended.

Therefore, of the claims in Group II, claims 17, 19-24, 27-44, 47-61, 64-67, and 69-81 are pending.

The independent claims are amended to specifically point out and clarify the sterile filterable fluticasone composition. Support for these amendments is found at ¶ [0009], [0044], [0059], and [0060].

Claims 34, 35, 55, 56, 77 and 78 are also amended to replace trademark names of chemicals with their generic equivalent to render moot the §112 rejections set forth in the withdrawn 17 July 2007 Office Action as discussed and made of record on the Interview Summary. In addition, and solely to advance prosecution, and without acquiescing to the PTO's arguments set forth in the withdrawn July 17, 2007 Office Action, claims 20-24, 29, 30, 39, 44, 45, 50, 51, 60-62, 72, and 73 have also been amended to remove recitation of the term "about." In addition to these clarifying amendments, Applicants have made other clarifying amendments to the dependent claims. These amendments do not introduce new matter, and their entry and consideration is respectfully requested.

C. Amendment to the Specification

Applicants have amended the specification to insert the generic chemical equivalent of trademarked chemical names, and have added the designation “TM” to indicate that POLYOX is a trademark. These amendments to the specification do not introduce new matter.

D. Applicants' Comments

As acknowledged by the Examiner in the withdrawn Office Action dated July 17 2007, and again in the Interview Summary dated October 3, 2007, Karlsson *et al.* does not teach sterilizing the fluticasone particles by passing the composition through a 0.2µm filter. Therefore, the prior rejection of 17, 19-24, 27-44, 47-61, 64-67, and 69-81 under 35 U.S.C. § 103, as allegedly obvious over Karlsson *et al.*, has been withdrawn.

Applicants have addressed the rejections of the pending claims under 35 U.S.C. § 112 and there remain no outstanding rejections under 35 U.S.C. §§ 102 or 103. Accordingly, Applicants respectfully submit that the pending claims are now in a condition for allowance. Early notification to that effect is greatly appreciated.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that all of the pending claims are now in condition for allowance. An early notice to this effect is earnestly solicited. If there are any questions regarding the application, the Examiner is invited to contact the undersigned at the number below.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date October 25, 2007
FOLEY & LARDNER LLP
Customer Number: 31049
Telephone: (202) 672-5538
Facsimile: (202) 672-5399

By Simon J. Elliott
Simon J. Elliott
Agent for Applicants
Registration No. 54,083